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**FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP**
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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In re Application of :
Xavier BLIN et al. :
Application No. 10/796,979 : **DECISION ON PETITION**
Filed: March 11, 2004 :
Attorney Docket No. 05725.1343-00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 08, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 01, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 02, 2008.

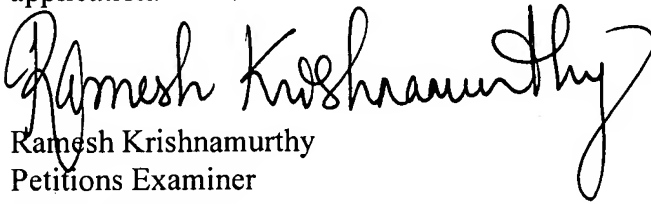
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of \$1540; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of November 01, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats.

1988). Since the \$120 extension of time fee submitted with the petition on May 08, 2008 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1614 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions